

REMARKS

Claims 45-61 are amended herein. Claims 62-69 are canceled. Hence no issues of new matter are presented. Accordingly, upon entry of the Amendment, claims 45-61 will be all of the claims pending in the application.

I. Status of Office Action Dated April 27, 2004

Applicants note that on the Office Action Summary Sheet, the Office Action dated April 27, 2004 is indicated as being a Final Office Action. However, on page 2 of the Office Action, the heading reads “Non-Final Office Action”. In view of these conflicting statements Examiner Qazi was contacted by telephone and she indicated that the Office Action is non-final in view of the new rejections raised. Applicants thank Examiner Qazi for clarifying this matter and submit the following in response to the non-final Office Action.

II. Response to Obviousness-Type Double Patenting Rejection

The obviousness-type double patenting rejection is maintained for the reasons of record with respect to the claims of the present application drawn to a method of treating inflammatory respiratory disease.

Applicants presume that the Examiner is referring to claims 62-65 of the present application, which are canceled herein; thus, rendering the rejection moot.

Accordingly, Applicants respectfully request withdrawal of the obviousness-type double patenting rejection.

III. Response to Claim Rejections Under 35 U.S.C. § 112, 2nd Paragraph

Claims 45-65 are rejected under 35 U.S.C. § 112, 2nd paragraph as allegedly being indefinite. Specifically the Examiner refers to the following terms as indefinite: “derivative”; “composed of”; and “already shown in the formula”. The Examiner further indicates that claims 51-60 improperly depend on claim 46 because there is no formula (1) and that claims 48-50 are improper multiple dependent claims.

Applicants respectfully submit that claim 52 is amended herein to replace “derivative” with the word “compound”, thereby obviating this ground for rejection.

Claim 61 is amended by replacing the phrase “composed of” with the word “comprising”, thereby obviating this ground for rejection.

Claims 45, 55 and 60 are amended to clarify the claim language in referring to the bond formed between the carbon atoms to which each of the substituents E, D, R₄₁, A and B, is attached, respectively, thereby obviating this ground for rejection.

Claims 48-50 are amended herein to refer to “one out of claims 45, 46 or 47”, thereby obviating this ground for rejection.

In regard to the rejection of claims 51-60 as allegedly being improperly dependent on claim 46, Applicants submit that claim 46 refers to formula (1) as recited in claim 45, from which claim 46 depends. Therefore, Applicants respectfully traverse the rejection and submit that the claim language is proper.

Claims 45-61 are amended herein to delete the word “above” in referring to formula (1) to further clarify the claim language.

In view of the above, Applicants respectfully request withdrawal of the rejections under 35 U.S.C. § 112, 2nd paragraph.

IV. Response to Claim Rejections Under 35 U.S.C. § 112, 1st Paragraph

Claims 66-69 are rejected under 35 U.S.C. § 112, 1st paragraph as failing to comply with the enablement requirement. However, the Examiner states that chronic sinusitis, allergic rhinitis, respiratory distress syndrome, cystic fibrosis, common cold, pulmonary fibrosis as listed in claims 62-65 are not enabled in the specification.

Applicants note that claims 66-69, which are indicated as being rejected, were canceled in the Amendment filed on November 14, 2003. Thus, Applicants presume that the rejection is directed to claim 62-65 as mentioned by the Examiner in the Office Action on page 3, the fourth line from the bottom of the page. Claims 62-65 are canceled herein and therefore the rejection is rendered moot.

Accordingly, Applicants respectfully request withdrawal of the rejection.

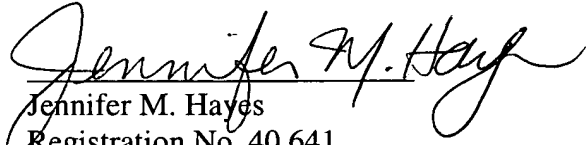
In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

AMENDMENT UNDER 37 C.F.R §1.111
U.S. APPLN. 10/035,251

ATTY DKT NO.: Q67009

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,


Jennifer M. Hayes
Registration No. 40,641

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

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CUSTOMER NUMBER

Date: June 4, 2004